

EXHIBIT 63

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I N D E X

People vs. Xavier Walker and Jovanie Long

Date of Hearing: 2-19-03

Page Numbers: EE-1 through EE-95

PROCEEDINGS

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MOTION TO SUPPRESS EVIDENCE (Long)

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People's 1

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Defendant's 1

1 THE CLERK: Xavier Walker.

2 THE COURT: You don't have any motions?

3 MR. WILSON: No.

4 MS. COLEMAN: They're all done.

5 THE COURT: Good morning, gentlemen.

6 THE DEFENDANT: Good morning, sir.

7 MR. WILSON: For the record, Gregory Wilson
8 appearing on behalf of Xavier Walker present before
9 the Court.

10 MS. COLEMAN: Judge, Mr. Long's matter is
11 set for motions, but with regard to both defendants,
12 we may have been premature setting this for trial.
13 We set it for trial April 30th for a bench trial.
14 With regard to Mr. Long, we are seeking the death
15 penalty on him. We need to still have a management
16 conference with Mr. Conniff. I spoke with Mr.
17 Conniff, and after his motion is done, we'll pick a
18 date for that.

19 There is one item at the Crime Lab
20 that needs DNA tests completed. I spoke to the
21 analyst and she said she will have it done at the end
22 of April. Counsel needs to have that ahead of time.
23 That only goes to Mr. Long, also.

24 So we're looking on setting it for a

1 status date sometime maybe the end of March to make
2 sure they have all the discovery. Hopefully, I'll
3 have the DNA done by then; although, I can't
4 guarantee that because the lab has a backlog of four
5 months.

6 We were hoping to set a status date
7 on both defendants today. Mr. Walker doesn't have a
8 motion today so he was hoping to just get a date now
9 since he's not involved in the motion.

10 THE COURT: Do you have a date in late
11 March you're going to be back?

12 MR. WILSON: We were looking at March 20th,
13 Judge.

14 THE COURT: You got it.

15 MS. COLEMAN: The other problem with the
16 trial date, Judge, is the victim's mother is going to
17 be out of the country that week. So I told that to
18 counsels, and since we still don't know about the
19 DNA, I thought we'd hold off and set the trial date
20 after that date.

21 THE COURT: All right, gentlemen.

22 (WHEREUPON, a recess was had
23 in the above matter.)

24 THE CLERK: Jovanie Long.

1 THE COURT: All right. Speaker is on.

2 MS. COLEMAN: Judge, this is set today for
3 a motion to suppress the statements. I have talked
4 to counsel ahead of time. Detectives Riordan and
5 Pietryla are here.

6 There is another detective who is
7 named in the motion. I talked to the -- counsel and
8 the detectives, and he's not really involved in this
9 portion of the investigation. So I believe at this
10 time he's being stricken from the motion.

11 Is that correct?

12 MR. CONNIFF: Judge, I'm not striking him.
13 The state indicated they wouldn't call him. I have
14 looked at the detective supplement, and the principal
15 witnesses appear to be Detectives Pietryla and
16 Riordan, so I believe the state can proceed with
17 them. If he becomes relevant, we can ask him to come
18 in.

19 MS. COLEMAN: On Page 2, Allegation C, I
20 did talk to counsel about making that portion more
21 specific. During the periods of time that the
22 defendant was left alone while they were arranging a
23 polygraph examination, there is an allegation in that
24 paragraph that he was threatened at some point.

1 Again, the two detectives who were
2 working on this case at this period of time are
3 here. I don't know if they're the two he's
4 talking about, and I'd just ask that portion be made
5 more specific so I know who to rebut that allegation
6 with.

7 THE COURT: Do you have a description?

8 MR. CONNIFF: Judge, I think Paragraph 2
9 indicates the names of the detectives, and there are
10 only three names, Riordan and Pietryla and Krofel.
11 We've discussed Krofel, which leaves two, and I think
12 the names of the individuals and their star numbers
13 are a sufficient description.

14 MS. COLEMAN: Well, since this is my burden
15 and my case-in-chief, Krofel is not a part of this.
16 So I want to make it clear, if the defendant somehow
17 implicates Krofel, I can call him in rebuttal, but I
18 do not intend to call Krofel to rebut any of these
19 allegations at this point because he's just not
20 involved at this point in the investigation.

21 THE COURT: What I have heard in response
22 to your inquiry is that Krofel is not implicated in
23 these allegations, but either or both of the other
24 two may be.

1 MS. COLEMAN: Right, and they're here.

2 THE COURT: Okay.

3 MS. COLEMAN: I would ask that the
4 defendant be sworn to the motion, Judge.

5 THE COURT: Raise your right hand, sir.

6 Do you solemnly swear that the facts
7 contained in this motion are true and accurate to the
8 best of your knowledge?

9 THE DEFENDANT: Yes.

10 (Brief pause.)

11 MS. COLEMAN: Judge, I would ask leave to
12 call Detective Pietryla.

13 THE COURT: There's a motion to exclude
14 witnesses?

15 MR. CONNIFF: Yes, Judge, motion to exclude
16 witnesses.

17 MS. COLEMAN: For the record, I tendered
18 polygraph records to counsel .

19 THE COURT: She tendered the polygraph
20 notes?

21 MR. CONNIFF: Correct. Those were tendered
22 this morning, Judge.

23 Judge, members of the defendant's
24 family have been here on other court dates. They are

1 not here now. I don't know whether they may have
2 occasion to walk in during the hearing of the motion.
3 If I see them at any point, I will notify the state
4 and the Court.

5 THE COURT: Do you anticipate them
6 testifying at trial?

7 MR. CONNIFF: At trial. Not on the motion,
8 Judge.

9 THE COURT: All right. You don't have
10 any potential witnesses out there, do you,
11 Miss Coleman?

12 MS. COLEMAN: No, Judge.

13 THE COURT: Please raise your right hand.

14 (Witness sworn.)

15 THE COURT: Please be seated.

16 MS. COLEMAN: May I proceed, Judge?

17 THE COURT: Counsel, are you ready?

18 MR. CONNIFF: Yes, Judge.

19 THE COURT: Go right ahead.
20
21
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23
24

1 WHEREUPON,

2 MICHAEL PIETRYLA,

3 called as a witness on behalf of the People of
4 the State of Illinois, having been first duly sworn,
5 under oath was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MS. COLEMAN:

8 Q. Detective, could you please tell the judge
9 your full name and spell your last name and give us
10 your star number?

11 A. Michael Pietryla, P-i-e-t-r-y-l-a, Star
12 Number 21209.

13 Q. And where are you currently assigned?

14 A. Area 4 Homicide.

15 Q. What are your duties in Area 4?

16 A. I'm a homicide detective, ma'am.

17 Q. Back in April and May of the year 2000,
18 were you assigned to Area 4?

19 A. Yes, I was.

20 Q. On May 13th of 2000, were you assigned to
21 investigate the homicide of Marek Majdak which had
22 occurred on April 13th of 2000 at approximately
23 1:00 a.m. at 4721 West Ohio?

24 A. Yes.

1 Q. And did you -- were you assigned to
2 investigate that case until the case was cleared and
3 closed?

4 A. Yes, I was.

5 Q. Now, I'm going to direct your attention to
6 the end of May of the year 2000. By that point, was
7 the codefendant on the case, Xavier Walker, already
8 arrested and charged?

9 A. Yes.

10 Q. And was there a stop order out for a person
11 by the name of Jovanie Long?

12 A. Yes.

13 Q. Did you and your partners begin looking for
14 Jovanie Long?

15 A. Yes.

16 Q. Did you know an address for his mother of
17 4230 West Crystal?

18 A. Yes.

19 Q. Did you begin looking for the defendant at
20 that address?

21 A. Yes, we did.

22 Q. I'm going to direct your attention
23 specifically now to June 5th of 2000. That evening,
24 did you speak to anybody at that address?

1 A. Yes, I did.

2 Q. Who did you speak to?

3 A. I spoke to a woman who identified herself
4 as Regina Long, the mother of Jovanie.

5 Q. Could you keep your voice up louder?

6 A. Sure.

7 Q. Did you speak to her in person or over the
8 phone on June 5th?

9 A. Over the phone.

10 Q. When you spoke to Regina Long over the
11 phone, what did you tell her?

12 A. First we asked her if she knew the
13 whereabouts of her son and that he was implicated in
14 a homicide which occurred in May.

15 Q. Did she tell you whether she knew where her
16 son was?

17 A. She said she did not know where he was at,
18 but she had spoke with him.

19 Q. And did she tell you that she would do
20 anything with the information you had given her?

21 A. Yes. We had asked her to contact her son
22 as soon as she could and have him call us or come in
23 to talk to us.

24 Q. At any time on that date, did you speak to

1 the defendant, himself?

2 A. No.

3 Q. Now I'm going to direct your attention to
4 July 25th of 2000. Did you go to the home at 4230
5 West Crystal on the third floor?

6 A. Yes.

7 Q. Who were you with?

8 A. Detective Riordan.

9 Q. And when you and Detective Riordan went to
10 that address, did you speak to somebody who
11 identified herself as Regina Long?

12 A. Yes, we spoke with Regina Long.

13 Q. When you spoke to Regina Long at that time,
14 did you ask her about her son, Jovanie Long?

15 A. Yes, we did.

16 Q. What did you tell her?

17 A. We again explained to her why we wanted to
18 talk to him and that he had been implicated and that
19 there was an active stop order in relation to the
20 homicide and we needed to have him come in and talk
21 to us about this.

22 Q. Now, during that conversation, did you or
23 Detective Riordan ever threaten Regina Long in any
24 way about wanting to kill her son?

1 A. No.

2 Q. On July 25th, did you or Detective Riordan
3 ever actually speak to Jovanie Long either in person
4 or over the phone?

5 A. No.

6 Q. On June 5th on that conversation that you
7 spoke about with the defendant's mother over the
8 phone, did you ever make any threats at all about
9 Jovanie Long?

10 A. No.

11 Q. Between June 5th and July 25th, did you or
12 Detective Riordan or anybody else working on this
13 case to your knowledge ever speak directly to the
14 defendant at all?

15 A. No.

16 Q. Now, on July 25th of the year 2000, did you
17 receive a phone call from anyone?

18 A. Excuse me?

19 Q. Did you receive a phone call from anyone?

20 A. Yes, from Regina Long.

21 Q. And did she call you at the area?

22 A. Yes, she did.

23 Q. When she called you, did she tell you
24 anything?

1 A. She told me that she was working on trying
2 to get her son to turn himself in.

3 Q. Did she give you a time frame about when he
4 may turn himself in?

5 A. She said approximately a week, that she had
6 to make arrangements with some clergy member and that
7 he needed to get his affairs in order.

8 Q. And did she tell you that she would contact
9 you again?

10 A. Yes.

11 Q. And on August 3rd of 2000 in the evening,
12 approximately 7:00 p.m., were you contacted again by
13 Regina Long?

14 A. Yes, I was.

15 Q. Was that again over the phone?

16 A. Over the phone.

17 Q. When she talked to you on that time, what
18 did she tell you?

19 A. She told me that she would be coming in the
20 next day at noon with her son to turn himself in and
21 Reverend Major. I don't recall his last name.

22 Q. Is it Reverend Howard? Major Howard?

23 A. Yes.

24 Q. Now, at the conversation on July 28th or

1 August 3rd, did you make any threats at all
2 whatsoever with regard to Jovanie Long?

3 A. No.

4 Q. Did you ever actually speak to Jovanie Long
5 at any of those conversations?

6 A. No. No, I did not.

7 Q. And you were the one who was actually
8 speaking to Regina Long; is that correct?

9 A. Yes, I was.

10 Q. Now, on August 4th of 2000, were you at
11 the area waiting for the defendant to turn himself
12 in?

13 A. Yes.

14 Q. At approximately 11:45 a.m., did anyone
15 show up at the station?

16 A. Yes.

17 Q. Who showed up?

18 A. Jovanie Long, his mother, Regina, and the
19 Reverend.

20 Q. That's Reverend Major Howard?

21 A. Yes.

22 Q. And did you have a conversation with the
23 defendant at any point?

24 A. At that time?

1 Q. Yes.

2 A. No.

3 Q. What happened when they arrived at the
4 area?

5 A. We took Jovanie into an interview room and
6 the Rev -- I don't -- he asked if the Reverend would
7 come along. I said that would be fine, and we took
8 both of them into the interview room.

9 Q. And were you working with Detective Riordan
10 that day?

11 A. Yes.

12 Q. Was Investigator Krofel working that
13 morning?

14 A. No, he was not.

15 Q. And when you took the defendant to the
16 interview room, it was just you, Riordan, and the
17 Reverend and the defendant; correct?

18 A. That's correct.

19 Q. The person you spoke about, Jovanie Long,
20 do you see that person in the courtroom today?

21 A. Yes, I do.

22 Q. Could you please point to him and describe
23 something he's wearing today?

24 A. He's wearing a Cook County outfit and he

1 has a shaved head (indicating.)

2 MS. COLEMAN: Judge, may the record reflect
3 the in-court identification of the defendant?

4 THE COURT: It shall.

5 BY MS. COLEMAN:

6 Q. Now, in the presence of the Reverend, did
7 you or Detective Riordan do anything?

8 A. Detective Riordan read him his rights.

9 Q. Read the defendant his rights?

10 A. Yes, he did.

11 Q. Did he do that by memory or from a
12 preprinted source?

13 A. He did it from a preprinted card on the
14 back of our FOP book.

15 Q. Do you have an FOP book with you?

16 A. Yes, I do.

17 Q. Could you please turn that book to the page
18 where the rights are listed?

19 MS. COLEMAN: Judge, I'm asking that the
20 detective's FOP book be marked as People's Exhibit
21 Number 1.

22 THE COURT: It shall.

23

24

1 (WHEREUPON, People's Exhibit
2 Number 1 was marked for
3 identification.)

4 MS. COLEMAN: I would ask that the
5 detective be allowed to read the rights out of the
6 FOP book.

7 MR. CONNIFF: No objection..

8 BY MS. COLEMAN:

9 Q. The rights in that book, are those the same
10 rights read to the defendant?

11 A. Yes, they were.

12 Q. Would you begin reading them?

13 A. "Before we ask you any questions, it
14 is our duty to advise you of your rights.

15 "Number one: Do you understand
16 that you have the right to remain silent?

17 "Number two: Do you understand
18 that anything you say can and may be used
19 against you in a court or other
20 proceedings?

21 "Number three: Do you
22 understand that you have the right to talk
23 to a lawyer before we ask you any
24 questions and to have him with you during

1 questioning?

2 "Number four: If you cannot
3 afford or otherwise obtain a lawyer and
4 you want one, a lawyer will be appointed
5 for you, and we will not ask you any
6 questions until he has been appointed.

7 "Number five: If you decide to
8 answer now with or without a lawyer, you
9 still have the right to stop the
10 questioning at any time or to stop the
11 questioning for the purpose of consulting
12 a lawyer.

13 "Number six: You may waive the
14 right to advice of counsel and your right
15 to remain silent, and you may answer
16 questions or make a statement without
17 consulting a lawyer if you so desire.

18 "Number seven: Do you
19 understand each of these rights?

20 "Number eight: Do you wish to
21 answer questions at this time?"

22 Q. After each of those rights were read to the
23 defendant, did he indicate whether he understood each
24 of those rights?

1 A. Yes, he did.

2 Q. And this was in the presence of Reverend
3 Howard?

4 A. Yes, it was.

5 Q. And did Detective Riordan read the rights
6 just as you have read them today?

7 A. Yes, he did.

8 Q. Did the defendant agree to speak to you
9 about the murder of Marek Majdak?

10 A. Yes, he did.

11 Q. What did the Reverend do at that time?

12 A. The Reverend left the room.

13 Q. And when the Reverend left, what did you
14 and Detective Riordan do?

15 A. We escorted the Reverend back to where
16 Regina Long was at, and we told him that Jovanie
17 would be with us for awhile and we were going to
18 conduct some interviews with him, and that if they
19 chose to stay, that was okay. If they chose to call
20 us, that would be okay, too.

21 Q. What did you and Detective Riordan do
22 then?

23 A. Then we went back in the room and talked to
24 Jovanie Long.

1 Q. When you went back into the room, did the
2 defendant speak to you about what had happened on the
3 early morning hours of May 13th of 2000?

4 A. Yes.

5 Q. Would you characterize the statement that
6 he gave you as a denial?

7 A. Yes.

8 Q. Did he also give you a partial alibi?

9 A. Yes, he did.

10 Q. Did he name anybody in that alibi?

11 A. Yes, he did.

12 Q. Who did he name?

13 A. Hersula Byrd.

14 Q. Did he indicate who Hersula Byrd was to
15 him?

16 A. He told us it was his girlfriend.

17 Q. Did you tell the defendant anything about
18 other witnesses?

19 A. Yes, we did.

20 Q. What did you tell him?

21 A. We told him that we had third party
22 admissions from him to other people and that they
23 have already given statements.

24 Q. Did you tell him anything about the

1 codefendant, Xavier Walker?

2 A. Yes, we did.

3 Q. What did you tell him?

4 A. We told him that Xavier Walker had been
5 arrested and charged for his participation in that
6 murder and that he had given a videotape recorded
7 statement implicating him as the shooter and the
8 person who robbed the victim.

9 Q. When you say, "him," you're referring to
10 Jovanie Long?

11 A. I'm referring to Jovanie Long.

12 Q. Did the defendant, Jovanie Long, ask
13 anything at that time?

14 A. He wanted to see the videotaped statement.

15 Q. And what did you and Detective Riordan do
16 then?

17 A. We left the room, got the tape, and we
18 showed him the portion of the tape which -- in which
19 Xavier Long (sic) said that Jovanie shot him and
20 robbed him.

21 Q. When you say, "him," you're referring to
22 the victim?

23 A. To the victim, yes.

24 Q. Did you ever show him the entire tape at

1 all?

2 A. No, we did not.

3 Q. Did you ever actually show him any of the
4 statements of the people who the defendant had given
5 third party admissions to?

6 A. No, we did not.

7 Q. Now, after the defendant viewed the portion
8 of the statement where Xavier Walker implicated him,
9 what did the defendant say?

10 A. I believe he said, Xay's tricking on me.

11 Q. And then what did he say?

12 A. He asked if he could take a polygraph
13 exam.

14 Q. And did you tell him that he could?

15 A. Yes, we did.

16 Q. Did you schedule a polygraph exam?

17 A. Yes, we did.

18 Q. What time were you able to schedule the
19 polygraph exam for?

20 A. It would have been the following morning at
21 about 8:00 o'clock.

22 Q. Now, how long were your conversations with
23 the defendant on August 4th?

24 A. No longer than 40 minutes at a time.

1 Q. And how many -- approximately how many
2 times did you speak to him for 40 minutes?

3 A. Two or three times.

4 Q. Now, did you tell him that the polygraph
5 would not be until the next morning?

6 A. Yes.

7 Q. Now, that evening, where was the defendant?

8 A. He was in the interview room that we
9 brought him to originally.

10 Q. And what did you and Detective Riordan
11 begin doing that evening?

12 A. We began looking for Hersula Byrd.

13 Q. Did you spend that evening looking for
14 Hersula Byrd?

15 A. Yes.

16 Q. Were there points in time when you came
17 back to the area?

18 A. Yes.

19 Q. Was there anybody else in the area that
20 night who was working on this case aside from you and
21 Detective Riordan?

22 A. No, there was not.

23 Q. Was there any time during the evening
24 when you went to check on the defendant, Jovanie

1 Long?

2 A. Several times.

3 Q. Was there any time during that evening when
4 you went in and threatened Jovanie Long?

5 A. No.

6 Q. Did you ever tell him that if he did not
7 talk, that he would be held for an indefinite period
8 of time?

9 A. No.

10 Q. Also, Detective, was there ever a point in
11 time when the defendant told you that he would not
12 speak to you?

13 A. No, there was not.

14 Q. Now, was the defendant left alone that
15 evening until the next morning for the polygraph?

16 A. Yes.

17 Q. That evening was he fed at all?

18 A. Yes.

19 Q. And who fed him?

20 A. I think we both fed him, Detective Riordan
21 and myself.

22 Q. Do you recall what you fed him?

23 A. Probably hamburgers.

24 Q. Now, the next morning, on August 5, 2000,

1 you said the polygraph was scheduled for
2 8:00 o'clock; is that correct?

3 A. That's correct.

4 Q. Where did you have to take the defendant
5 for the polygraph exam?

6 A. To Homan Square.

7 Q. How far is Homan Square from Area 4?

8 A. About five minutes by car.

9 Q. Now, when you -- did you leave Area 4 with
10 the defendant to go to the polygraph?

11 A. Yes, we did.

12 Q. Who else was with you in the car?

13 A. Just Detective Riordan and myself and
14 Jovanie Long.

15 Q. Now, on the way to the polygraph exam --
16 you said it was about a five minute drive?

17 A. About that.

18 Q. At any point on the way to the polygraph
19 exam did you tell the defendant that if he passed the
20 exam that you would kill him and make it look like he
21 was killed attempting to escape?

22 A. No, I did not.

23 Q. Did Detective Riordan ever make those
24 claims to the defendant?

1 A. No, he did not.

2 Q. Did you or Detective Riordan make any
3 threats at all to the defendant on the way to the
4 polygraph exam?

5 A. No, we did not.

6 Q. Was there anybody else in the car besides
7 you, Detective Riordan, and the defendant?

8 A. No.

9 Q. When you got to the polygraph exam, did you
10 meet with a polygraph investigator?

11 A. Yes.

12 Q. Who was that?

13 A. Bartik.

14 Q. When you met with Bartik, was that first at
15 approximately 8:15 in the morning?

16 A. Yeah, about 8:15.

17 Q. When you met with Bartik, where was the
18 defendant?

19 A. When we met with Bartik, we put Jovanie
20 Long in the polygraph room.

21 Q. And where did you and Detective Riordan and
22 Detective Bartik go?

23 A. In his office.

24 Q. Bartik's office?

1 A. Yes.

2 Q. And what did you do there?

3 A. We explained the facts of the case, gave
4 him a copy of the case record, and briefly told him
5 that we were -- want him questioned in regards to his
6 implication as the shooter.

7 Q. And did Investigator Bartik then leave you
8 and Detective Riordan alone?

9 A. Yes, he did.

10 Q. How long was Investigator Bartik gone
11 before he returned to his office?

12 A. Five or ten minutes.

13 Q. And when he returned to his office, what
14 did he say?

15 A. He said, you better come back in here, he
16 made an admission.

17 Q. Did you go into the room where the
18 defendant was sitting for the polygraph?

19 A. Yes.

20 Q. And did you say anything to the defendant?

21 A. I asked him what he wanted to say,
22 and he told me that he shot -- he robbed him and
23 shot him.

24 Q. And --

1 A. And I asked him who, and he said, the white
2 boy.

3 Q. What did you do then?

4 A. We explained to him that -- you know, what
5 was going to be done now, that we would take him
6 back. He wasn't going to take the polygraph exam,
7 and we were going to take him back to the area.

8 Q. Did you and Detective Riordan then take him
9 back to the area?

10 A. Yes.

11 Q. When you took him back to the area, did you
12 or Detective Riordan advise him of anything?

13 A. Detective Riordan advised him of his rights
14 again.

15 Q. Was that in your presence?

16 A. Yes.

17 Q. Were those the same rights that you have
18 just read to us?

19 A. Yes.

20 Q. Did he begin reading them out of the FOP
21 book?

22 A. Yes.

23 Q. Did the defendant acknowledge he understood
24 each of those rights?

1 A. Yes.

2 Q. Did the defendant make a statement to you
3 about the murder of Marek Majdak?

4 A. Yes, he did.

5 Q. After that statement, what did you do?

6 A. We contacted felony review and told him the
7 facts of the case, and they told us that they would
8 send out a State's Attorney.

9 Q. And did a State's Attorney arrive at the
10 area at approximately 10:00 a.m.

11 A. Yes.

12 Q. Detective, was there ever a time when the
13 defendant was shown various statements from witnesses
14 until he was coached into giving a statement about
15 the murder of Marek Majdak?

16 A. No.

17 Q. In fact, the only statement that you showed
18 the defendant was whose statement?

19 A. Xavier Walker's.

20 Q. Was there ever a time when you even
21 showed the defendant the entire statement of Xavier
22 Walker?

23 A. No, we did not.

24 Q. Was there ever a time when the defendant

1 was in custody where you or anyone in your presence
2 threatened the defendant in any way that if he
3 refused to talk he'd be held for an indefinite period
4 of time?

5 A. No.

6 Q. And was there ever a time before the
7 defendant turned himself in where you or any other
8 detectives threatened to kill the defendant if they
9 found him?

10 A. No.

11 Q. Was the defendant ever in custody on August
12 2nd of the year 2000?

13 A. No, he wasn't.

14 MS. COLEMAN: I have no further questions
15 of this witness, Judge.

16 CROSS EXAMINATION

17 BY MR. CONNIFF:

18 Q. Detective, how long have you been a Chicago
19 Police Officer?

20 A. 17 years.

21 Q. How long have you been a detective?

22 A. Eight years.

23 Q. Your testimony was that the defendant
24 turned himself in; correct?

1 A. That's correct.

2 Q. Now, when a defendant turns himself in or
3 if anyone comes into the station to talk to you, what
4 records are kept of the individual being in the
5 station?

6 MS. COLEMAN: I'm going to object to
7 generally what records are kept as to relevance.

8 THE COURT: Sustained.

9 MR. CONNIFF: I can rephrase it, Judge.

10 BY MR. CONNIFF:

11 Q. With respect to Mr. Long, what records
12 would be kept indicating that he was in the station
13 on August the 4th?

14 A. Our General Progress Reports.

15 Q. All right, sir. If he comes into the
16 station, he has to appear at the desk first;
17 correct?

18 A. Yes.

19 Q. And you would be notified of his presence
20 in the station?

21 A. Yes.

22 Q. Does the desk sergeant make a notation of
23 who approaches him in the station and asks to talk
24 to the detective? Is there any record kept at the

1 desk?

2 A. I don't know.

3 Q. In your experience as a police officer, you
4 don't know whether those records are kept?

5 A. I don't believe so.

6 Q. So if Mr. Long came in on a day other than
7 August the 4th, there would be no other record
8 maintained by the Chicago Police Department other
9 than your General Progress Reports as to when he was
10 in the station?

11 MS. COLEMAN: Objection, calls for
12 speculation.

13 THE COURT: He can tell us his
14 understanding.

15 BY THE WITNESS:

16 A. Repeat the question again.

17 BY MR. CONNIFF:

18 Q. If Mr. Long came into the station on a day
19 other than August the 4th --

20 A. Mm-hmm.

21 Q. -- would there be any other record
22 of the Chicago Police Department of his presence
23 in the station other than your General Progress
24 Reports?

1 A. Depending upon what he came in for.

2 Q. All right. Let's assume he came in to turn
3 himself in.

4 A. Then there would be General Progress
5 Reports by a detective.

6 Q. So your answer, as I understand it, is the
7 only record of when a man is in the station when he
8 reports to turn himself in is the General Progress
9 Report which you prepared?

10 A. Yes.

11 Q. There's nothing -- no notation is made at
12 the desk?

13 A. No.

14 MS. COLEMAN: Objection, asked and
15 answered.

16 THE COURT: Sustained.

17 BY MR. CONNIFF:

18 Q. There's no notation made up in the Area 4
19 Violent Crimes Office, an official log of who was
20 present in the station?

21 MS. COLEMAN: Objection, asked and
22 answered.

23 THE COURT: I'll let him answer that.

24 BY THE WITNESS:

1 A. Yes.

2 BY MR. CONNIFF:

3 Q. Yes, there is such a log?

4 A. There is a log.

5 Q. And is that log kept on a daily basis?

6 A. Yes.

7 Q. All right. And what does that log --
8 describe the entries that are made in that log.

9 A. Date on which the -- whoever is coming
10 in -- what date that would be, his name and the
11 detective's name and what case.

12 Q. All right. And is that a book?

13 A. No, it's not. It's just a piece of paper
14 that they have just so that when people call to see
15 if somebody is there, they can say, yeah, he's here
16 or he's not here.

17 Q. All right. So I take it this happens every
18 day; right?

19 MS. COLEMAN: Objection.

20 BY MR. CONNIFF:

21 Q. These sheets are kept up there?

22 THE COURT: Go ahead.

23 BY MR. CONNIFF:

24 Q. Sheets are kept on a daily basis?

1 A. I assume so, yes.

2 Q. And kept on every shift?

3 A. Yes.

4 Q. And they indicate those persons who are
5 present in Area 4 Violent Crimes on that date at a
6 specific time?

7 A. Yes.

8 Q. Now, after Mr. Long turned himself in, you
9 prepared General Progress Reports?

10 A. Yes.

11 Q. And do those General Progress Reports
12 document what you did with respect to Mr. Long?

13 A. Yes.

14 Q. And do you document -- generally speaking,
15 do you document in the General Progress Report, for
16 example, the time that you began an interview with
17 the defendant?

18 A. Generally, I do.

19 Q. All right. Do you know whether you did in
20 this case?

21 A. I don't recall.

22 Q. Do you document the time that you conclude
23 an interview of a defendant?

24 A. Yes, sometimes I do.

1 Q. Did you do it in this case?

2 A. I don't recall.

3 Q. You say sometimes you do. Is there any
4 policy which the Chicago Police Department requires
5 that you do so?

6 MS. COLEMAN: Objection to the relevance.

7 THE COURT: No, go ahead. I'll let him
8 answer.

9 BY THE WITNESS:

10 A. I -- I'm -- I don't know.

11 BY MR. CONNIFF:

12 Q. Okay. So with regard to a defendant giving
13 you a statement, sometimes you put down the time you
14 start and end and sometimes you don't?

15 A. Yes.

16 Q. And what guides you in making the
17 determination as to whether you document it?

18 A. It just depends upon how busy I am and what
19 I'm doing.

20 Q. All right. So if it -- strike that.

21 Do you document each and every
22 separate conversation that you have with the
23 defendant?

24 A. No.

1 Q. So you could have more than one
2 conversation with the defendant and you would
3 summarize it as though you were having one
4 conversation; is that correct?

5 MS. COLEMAN: Judge, I'm going to object to
6 what the detective generally does.

7 THE COURT: Sustained.

8 BY MR. CONNIFF:

9 Q. All right. But with respect to whether or
10 not you document each separate conversation, your
11 answer was no?

12 A. That's correct.

13 Q. Do you document in the General Progress
14 Report times when defendants ask to go to the
15 bathroom?

16 MS. COLEMAN: Again, objection to the
17 relevance of what the detective generally does.

18 THE COURT: Sustained.

19 BY MR. CONNIFF:

20 Q. Did the defendant ask to go to the bathroom
21 in this case?

22 A. Oh, yes.

23 Q. He did. Did you note that in your General
24 Progress Report?

1 A. I would have to review my report.

2 Q. What is the instruction that you have
3 been given by the Chicago Police Department as a
4 detective with regard to documenting that particular
5 subject?

6 MS. COLEMAN: Objection to relevance.

7 BY MR. CONNIFF:

8 Q. What is the policy, the general policy?

9 THE COURT: He can answer.

10 BY THE WITNESS:

11 A. Of going to the bathroom?

12 BY MR. CONNIFF:

13 Q. Of noting in your General Progress Reports
14 your treatment of the defendant. For example, his
15 request to go to the bathroom, what time it occurred,
16 and the fact that you let him go to the bathroom.
17 What's the general policy regarding General Progress
18 Reports?

19 A. The general policy would be that we took
20 him to the bathroom, fed him, gave him cigarettes,
21 Coke, with no specific time or date.

22 Q. So the general policy is to simply mention
23 it in the General Progress Reports?

24 A. Yes.

1 Q. And there's no instruction to you to
2 keep a chronological log of -- by time and subject
3 exactly what you did with regard to the defendant
4 and conversations that were had and actions
5 that were taken concerning him in a chronological
6 fashion?

7 A. That's correct.

8 Q. You indicated that you began your
9 investigation on or about May the 13th, which is the
10 date of the homicide; correct?

11 A. Yes.

12 Q. And the first conversation that you had
13 with Regina Long was on June the 5th?

14 A. That's correct.

15 Q. Were there any prior conversations with
16 Regina Long by other detectives that you were aware
17 of?

18 A. Not that I'm aware of.

19 Q. Would Detective -- was Detective Sanders
20 involved in this investigation?

21 A. Yes, he was.

22 Q. Was Detective Wright?

23 A. Yes, he was.

24 Q. Did you have conversations with them

1 concerning the conduct of the investigation?

2 A. Yes, I did.

3 Q. Did they ever tell you that they had talked
4 with Regina Long?

5 MS. COLEMAN: Objection to the relevance,
6 Judge. This detective is not named in the motion.

7 THE COURT: Go ahead. I'll allow it.

8 BY THE WITNESS:

9 A. Not that I recall.

10 BY MR. CONNIFF:

11 Q. Did you ever review any notes or General
12 Progress Reports that they had made concerning a
13 conversation with Regina Long before you talked to
14 her on June the 5th?

15 A. No.

16 Q. You indicated that you had a telephone
17 conversation with Regina Long on June the 5th;
18 correct?

19 A. That's correct.

20 Q. And she told you that she hadn't seen her
21 son?

22 A. Yes.

23 Q. And that she had talked to him on the
24 phone?

1 A. That's correct.

2 Q. And that she told him that the police were
3 looking for him?

4 A. I don't know what she said to her son.

5 Q. You don't know what she said?

6 A. All I know is what she told me.

7 Q. And what did she tell you? Did she tell
8 you that she had told her son that the police were
9 looking for him?

10 A. No, she did not.

11 Q. She did not say that in that conversation?

12 A. Not to me she did not.

13 Q. Did she tell you whether she knew where he
14 was?

15 A. She said she did not know.

16 Q. You then had a conversation with Regina
17 Long on July the 25th?

18 A. That's correct.

19 Q. Now, between May the 13th and June the 5th,
20 what shift were you working during that period of
21 time?

22 A. Third watch.

23 Q. Third watch?

24 A. Yes.

1 Q. Were the other detectives on first and
2 second watch also working this case?

3 A. As far as Jovanie Long was concerned?

4 Q. As far as May the 13th through June the
5 5th, the first contact with Regina Long?

6 A. Yes.

7 Q. And they were out on the street in the
8 neighborhood looking for people to talk to?

9 A. Yes.

10 MS. COLEMAN: Objection to the relevance.

11 THE COURT: Sustained.

12 BY MR. CONNIFF:

13 Q. Do you know -- you, yourself, were out on
14 the street looking for Jovanie Long during this
15 period?

16 A. That's correct.

17 Q. And from -- the same would be true of June
18 the 5th through July the 25th?

19 A. That's correct.

20 Q. And approximately how many people would you
21 say that you talked to in the neighborhood during
22 that period of time from May the 13th through July
23 25th?

24 A. In whose neighborhood?

1 Q. In the neighborhood where you were looking
2 for Jovanie Long?

3 A. Approximately?

4 Q. Yes.

5 A. 10, 15.

6 Q. 10 or 15 people?

7 Were any of those people brought into
8 the station and questioned?

9 A. Yes.

10 MS. COLEMAN: Objection to the relevance,
11 Judge.

12 THE COURT: I'll reserve ruling. I'm
13 giving you some latitude, but we're going to try to
14 stick to the written petition.

15 BY MR. CONNIFF:

16 Q. Did you talk to neighbors?

17 A. Whose neighbors?

18 Q. Jovanie Long's neighbors?

19 A. No, I did not.

20 Q. You did not.

21 Did you talk to relatives?

22 A. I did not.

23 Q. You say you did not. Are you aware of
24 someone else who did?

1 A. No, I'm not.

2 Q. So as far as you know, no one did?

3 MS. COLEMAN: Objection.

4 THE COURT: Sustained.

5 BY MR. CONNIFF:

6 Q. You never talked to any cousins, nieces,
7 uncles, aunts, anyone like that who purported to be a
8 relative of Jovanie Long during that period of time?
9 No one?

10 A. Not that I recall.

11 Q. And your testimony is that no one else did
12 as far as you know?

13 A. As far as I know, yes.

14 Q. So you, yourself, nor no one in your
15 presence ever threatened anyone in the neighborhood
16 with regard to Jovanie Long's presence or your
17 looking for him?

18 A. No.

19 Q. And you never nor did anyone else as far as
20 you know take anyone into custody with the objective
21 of trying to find out where Jovanie Long was?

22 A. No.

23 Q. And your testimony is that you never
24 threatened Regina Long's mother?

1 A. No, I did not.

2 THE COURT: I'm sorry. Never threatened
3 who?

4 MR. CONNIFF: I'm sorry. I misspoke,
5 Judge. Jovanie Long's mother, Regina.

6 BY THE WITNESS:

7 A. No, I never threatened her.

8 BY MR. CONNIFF:

9 Q. All right. You never suggested to her
10 that if Jovanie Long didn't turn himself in that he
11 might be shot on the street because this was a murder
12 case?

13 A. No, I did not.

14 Q. Did anyone else make that statement to her
15 in your presence?

16 A. No.

17 Q. And you never -- just so we're clear, you
18 never threatened any member of his family?

19 A. No, I did not.

20 Q. Nor did anyone else that you know about?

21 A. No.

22 Q. Now, you worked on the case from May the
23 13th until Jovanie Long turned himself in?

24 A. That's correct.

1 Q. And did you work the same shift during that
2 period of time?

3 A. I was assigned to the same shift. I worked
4 various hours.

5 Q. Did you work on this case every day?

6 A. No.

7 Q. About how many days out of every seven did
8 you work on this case would you estimate?

9 A. Probably three to four.

10 Q. Three to four.

11 And did you generate for those three
12 to four days each week General Progress Reports for
13 the shifts that that period of time would cover as to
14 what you were doing on the case during that period of
15 time?

16 MS. COLEMAN: Objection to the relevance.

17 THE COURT: Sustained.

18 BY MR. CONNIFF:

19 Q. You transported Jovanie Long to the
20 polygraph examination?

21 A. Yes, Detective Riordan and myself.

22 Q. And were there conversations in the car
23 between yourself and the -- and Officer Riordan and
24 Jovanie Long?

1 A. No.

2 Q. Did you ever suggest to him on the way to
3 the polygraph examination that the results of the
4 examination would not matter?

5 A. No, I did not.

6 Q. Or words to that effect?

7 A. No, I did not.

8 Q. Did you ever suggest to him on the way to
9 the examination that Jovanie Long could be killed and
10 that you could make it appear as if he were trying to
11 escape?

12 A. No, I did not.

13 Q. You mentioned a couple of times in your
14 testimony that there was a stop order for Jovanie
15 Long?

16 A. That's correct.

17 Q. That is not a warrant for his arrest;
18 correct?

19 A. No, it's not.

20 Q. What is the meaning of a stop order in the
21 Chicago Police Department?

22 A. It means that if he is stopped by another
23 police agency or Chicago, his name will appear that
24 we want him in questioning for -- and it will relate

1 to the RD number which we're asking about.

2 Q. All right. So if he's at another
3 station, you'll be notified, and you'll go pick him
4 up there?

5 A. If -- yes.

6 Q. And finally, Detective, you pulled out the
7 book of Miranda warnings, and you testified -- you
8 read those rights from the book; correct?

9 A. That's correct.

10 Q. And you said that the way you read the
11 rights today is the way you saw Officer Riordan read
12 them to the defendant?

13 A. Yes.

14 Q. He actually pulled out his book and read
15 them to the defendant?

16 A. Yes, he did.

17 Q. Do you know how long Officer Riordan has
18 been a police officer?

19 A. I believe he's been a police officer for 12
20 or 14 years, somewhere around there.

21 Q. Not -- strike that.

22 Not with respect to Officer Riordan,
23 but with respect to yourself, in all of your years as
24 a Chicago Police Officer, do you still pull out the

1 book and read from the book to each and every person
2 that you give the rights to?

3 A. I always do.

4 Q. You never give them from memory?

5 A. Never.

6 Q. And why is that?

7 A. Because my --

8 MS. COLEMAN: Objection to the relevance.

9 THE COURT: He can answer.

10 BY THE WITNESS:

11 A. Because I don't want to miss anything.

12 BY MR. CONNIFF:

13 Q. You don't want to miss any?

14 A. A word of the rights. I do not want to
15 miss not one word.

16 MR. CONNIFF: I have nothing further.

17 MS. COLEMAN: I have nothing based on that,
18 Judge.

19 THE COURT: Thank you, sir.

20 (Witness excused.)

21 MS. COLEMAN: We'd ask leave to call
22 Detective Riordan. The testimony will be very brief,
23 but I'd ask the foundation be laid for the videotaped
24 statement, so I'd ask to set up the video. It's all

1 ready to go.

2 THE COURT: Okay.

3 (Brief pause.)

4 MS. COLEMAN: I don't believe the detective
5 has been sworn.

6 THE COURT: Would you stand and raise your
7 right hand.

8 (Witness sworn.)

9 THE COURT: Please be seated.

10 WHEREUPON,

11 JOHN RIORDAN,

12 called as a witness on behalf of the People of
13 the State of Illinois, having been first duly sworn,
14 under oath was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MS. COLEMAN:

17 Q. Detective, could you please tell the judge
18 your name, star number, and unit of assignment?

19 A. Gang specialist John Riordan,
20 R-i-o-r-d-a-n, Star Number 60040. I'm assigned to
21 Area 4 Violent Crimes.

22 Q. Now, on August 5th of the year -- August
23 4th and 5th of the year 2000, were you assigned to
24 Area 4?

1 A. Yes.

2 Q. And on those days, were you working on the
3 murder of Marek Majdak which had occurred on May 13th
4 of 2000 at 4721 West Ohio?

5 A. Yes.

6 Q. Were you working with a partner on those
7 days?

8 A. Yes, I was.

9 Q. Who was that?

10 A. Detective Michael Pietryla.

11 Q. Detective, at any point during your -- do
12 you see the person that was in custody on those days
13 in the courtroom today? You can get up if you have
14 to.

15 A. Yes, the gentleman in the brown top and
16 brown bottom (indicating.)

17 MS. COLEMAN: Judge, may the record reflect
18 the in-court identification of the defendant?

19 THE COURT: It shall.

20 BY MS. COLEMAN:

21 Q. Detective, when you met with the defendant
22 on August 4th and 5th of 2000, at any time did you
23 threaten the defendant in any way that if he refused
24 to talk he would be held for an indefinite period of

1 time?

2 A. No.

3 Q. Was there ever a time when the defendant
4 said to you that he had nothing to say about this
5 investigation?

6 A. No.

7 Q. Was there ever a time before August 4th
8 that you, yourself, ever saw or spoke to the
9 defendant on the phone or in person at all?

10 A. No.

11 Q. Was there ever a time when you showed the
12 defendant various statements of all the witnesses in
13 the case and then coached the defendant to make a
14 statement?

15 A. No.

16 Q. Now I'm going to direct you specifically to
17 August 5th of the year 2000. Did you call a -- did
18 you and your partner call a State's Attorney to go to
19 that station that morning?

20 A. Yes.

21 Q. And did an ASA by the name of Jim Navarre
22 arrive at the area?

23 A. Yes.

24 Q. At approximately 4:30 that afternoon was a

1 videotaped statement taken from the defendant
2 regarding the murder of Marek Majdak?

3 A. Yes.

4 Q. Were you present for that videotaped
5 statement?

6 A. Yes, I was.

7 (WHEREUPON, People's Exhibit
8 Number 2 was marked for
9 identification.)

10 BY MS. COLEMAN:

11 Q. Now, before you testified, did you view
12 what has been marked as People's Exhibit Number 2,
13 the videotaped statement of Jovanie Long?

14 A. Yes.

15 Q. And did you have a chance to both view it
16 and listen to it?

17 A. Yes.

18 Q. And does that People's Exhibit Number 2,
19 does it truly and accurately show the statement that
20 the defendant gave to ASA Navarre on August 5th of
21 the year 2000?

22 A. Yes, it does.

23 Q. Does it show what everyone looked like?

24 A. Yes.

1 Q. Does it also show what everyone was saying
2 in the video?

3 A. Yes.

4 MS. COLEMAN: Judge, at this time, I'm
5 going to ask leave to publish the end of the
6 videotaped statement.

7 MR. CONNIFF: Judge, I'd object. Can I
8 voir dire for one second on the foundation?

9 THE COURT: Go right ahead.

10 VOIR DIRE EXAMINATION

11 BY MR. CONNIFF:

12 Q. Is it Detective Riordan?

13 A. Gang Specialist, sir.

14 Q. You have seen this videotaped statement?

15 A. Yes.

16 Q. And this videotape only covers the actual
17 statement that the defendant made at the end of his
18 custody, what was recorded on that tape at the end of
19 his custody; correct?

20 A. Correct.

21 Q. It's not a videotape that commences at the
22 beginning of his custody and continues through to the
23 end of his custody, is it?

24 A. No.

1 Q. It is only the portion that you and the
2 State's Attorney decided to videotape; correct?

3 MS. COLEMAN: Objection to the form of that
4 question.

5 THE COURT: Sustained.

6 MR. CONNIFF: Judge, I have nothing
7 further. I'd object to publishing a portion of a
8 videotape which the entirety of the videotape is a
9 portion -- only a portion of the defendant's entire
10 custody, and if -- as part of the foundation, we
11 would ask that the Court rule that the -- in order to
12 introduce any portion of a videotape, obviously, this
13 defendant is in custody for a period of time and the
14 vast majority of that period of time is not on
15 videotape.

16 The only thing on videotape is what
17 the state selects to put on videotape, and,
18 therefore, because there is not a videotape which
19 covers the entire period of the custody, this is only
20 a self-serving portion, and, therefore, the
21 foundation should be that there is a videotape which
22 commences at the time that the defendant is brought
23 into the room which encompasses all the transactions,
24 conversations, suggestions, question and answers,

1 that are posed to the defendant and answers given by
2 the defendant and not simply a portion of that
3 custody at the end, which is a prearranged portion by
4 the Chicago Police Station and the State's Attorney's
5 Office.

6 So we would object to publishing only
7 a portion which is captured on videotape which does
8 not represent that -- there's no other videotape
9 available to impeach anything which is on this
10 portion which is selected by the State's Attorneys.

11 THE COURT: Miss Coleman?

12 MS. COLEMAN: Judge, the proper foundation
13 has been laid to show the portion of the defendant's
14 interrogation which was videotaped.

15 The fact that the entire
16 interrogation was not videotaped does not take away
17 from the fact that the proper foundation was laid.
18 It may go to the weight, but it doesn't go to the
19 foundation as to whether this portion of the
20 videotape could be admitted.

21 THE COURT: You have the last word.

22 MR. CONNIFF: Judge, the defendant
23 obviously has no ability to request that any other
24 portion of his custody be videotaped. This is all

1 within the control of the Chicago Police Department,
2 and obviously, again, they're only videotaping a
3 small portion of the proceedings, obviously, to
4 create evidence to present in court. It's
5 self-serving.

6 They're calling it authentication. I
7 don't think this is truly authentication, and I would
8 ask that it be excluded unless all of the custody is
9 videotaped so that the defendant could be treated
10 fairly and possibly selecting other portions of an
11 available videotape which might cast doubt on the
12 portion that the state now wants to show you.

13 And we obviously don't have that
14 available because the defendant doesn't have
15 videotape equipment. He doesn't have the ability to
16 do that.

17 And I don't think that it's fair to
18 create a videotape with the defendant on it which
19 covers only a portion of his custody when he's
20 obviously in an adverse position and he has no
21 ability to present any evidence himself, bring it
22 into a courtroom, and then show it to your Honor and
23 then argue that it proves something.

24 I just don't think that we -- we have

1 no ability to impeach that is what I'm saying.

2 THE COURT: So you're saying unless the
3 entire transaction or interaction between the police
4 and a suspect is videoed, then there should not be
5 any portions of a video permitted in a possible
6 proceeding against a suspect?

7 MR. CONNIFF: Yes.

8 THE COURT: All right. I don't think that
9 goes to the weakening of the foundation. It is, as
10 Miss Coleman points out, I think, perhaps, the
11 subject of argument as it relates to credibility,
12 weight, et cetera.

13 But I do believe that the foundation
14 has been laid, and it will be admitted.

15 MS. COLEMAN: Judge, so the record is
16 clear, I'm only showing the end of the videotape that
17 relates to the defendant's statements.

18 MR. CONNIFF: Judge, can Mr. Long be
19 allowed to step over by the jury box to view the
20 videotape?

21 MS. COLEMAN: Judge, per the
22 court reporter's request, it is Page 12 beginning at
23 line 6 until the end.

24

1

2

(WHEREUPON, the following is the

3

transcript of the portion of

4

Exhibit 2 which was played for

5

the Court:)

6

"Question: Okay. Now, did you

7

come here to the police station yesterday?

8

"Answer: Yes.

9

"Question: Okay. And you came

10

here on your own?

11

"Answer: Yeah.

12

"Question: Okay. Why is that?

13

"Answer: Cause I had to. I

14

felt bad about what happened.

15

"Question: How have the police

16

treated you?

17

"Answer: They've treated me

18

fair.

19

"Question: And how have I

20

treated you?

21

"Answer: Fair.

22

"Question: Have you been given

23

anything to eat?

24

"Answer: Yeah.

1 "Question: What have you had to
2 eat?

3 "Answer: McDonald's and
4 Burger King.

5 "Question: You had anything to
6 drink?

7 "Answer: Yeah.

8 "Question: What have you had to
9 drink?

10 "Answer: Some pops, fruit pop
11 and some water.

12 "Question: Okay. Have you had
13 any cigarettes?

14 "Answer: Yeah.

15 "Question: Okay. Have you been
16 allowed to use the bathroom?

17 "Answer: Yeah.

18 "Question: More than once?

19 "Answer: Yeah.

20 "Question: Okay. Have you been
21 able to get any sleep?

22 "Answer: Yeah.

23 "Question: Okay. Are you
24 giving this statement freely and

1 voluntarily?

2 "Answer: Yeah.

3 "Question: Any threats or
4 promises been made to you in exchange for
5 this statement?

6 "Answer: No.

7 "Question: Okay. Are you under
8 the influence of alcohol or drugs?

9 "Answer: No.

10 "Question: This now concludes
11 the statement of Jovonie Long."

12 (End of tape.)

13 DIRECT EXAMINATION (Cont.)

14 BY MS. COLEMAN:

15 Q. So, Detective, in that videotaped
16 statement, the defendant acknowledges that he
17 arrived at the area the day before that statement;
18 correct?

19 A. Correct.

20 Q. And that statement was taken on August 5th;
21 correct?

22 A. Correct.

23 Q. And in that videotaped statement, he
24 acknowledges he was not threatened --

1 MR. CONNIFF: Judge, I'd object to the
2 State's Attorney rephrasing what is on the tape.
3 Your Honor had an opportunity to view the videotape.

4 THE COURT: All right. Your objection is
5 noted.

6 Go on.

7 BY MS. COLEMAN:

8 Q. On that videotape, the defendant
9 acknowledged to the State's Attorney that he was not
10 threatened in any way by the police; correct?

11 A. Correct.

12 Q. In fact, he acknowledged he was not
13 threatened in any way before the statement;
14 correct?

15 A. Correct.

16 MS. COLEMAN: No further questions, Judge.

17 CROSS EXAMINATION

18 BY MR. CONNIFF:

19 Q. Detective, were you present when the
20 defendant turned himself in?

21 A. Yes.

22 Q. There are sheets kept up in Area 4 Violent
23 Crimes to log in individuals who come up to Area 4
24 Violent Crimes and turn themselves in and are being

1 questioned there; correct?

2 MS. COLEMAN: Judge, I'm going to object to
3 beyond the scope of this witness.

4 THE COURT: It is.

5 BY MR. CONNIFF:

6 Q. Did you make any notation at the time that
7 the defendant turned himself in?

8 A. Yes.

9 Q. And where did you make that notation?

10 A. It was made in GPRs.

11 Q. I'm sorry?

12 A. It was made in the General Progress Report.

13 Q. The General Progress Report?

14 Did you make any notation on any
15 other form which is kept in Area 4?

16 MS. COLEMAN: Judge, again, objection to
17 beyond the scope.

18 MR. CONNIFF: Judge, this is what the
19 detective testified to concerning records of -- which
20 are kept in Area 4 Violent Crimes which --

21 THE COURT: He didn't. He didn't testify
22 to it nor was he asked about it.

23 MR. CONNIFF: Right. Judge, I'd ask to ask
24 him briefly about whether he, himself, made any

1 notations on those forms and whether those forms
2 existed on that day.

3 THE COURT: You can call him as your
4 witness.

5 MR. CONNIFF: All right. No further
6 questions.

7 MS. COLEMAN: I have nothing further,
8 Judge, from this witness.

9 THE COURT: Step down, sir.

10 (Witness excused.)

11 MS. COLEMAN: Judge, I have one other brief
12 witness. It's the polygraph examiner.

13 THE COURT: Okay.

14 (Brief pause.)

15 THE COURT: Please raise your right hand.

16 (Witness sworn.)

17 THE COURT: Please be seated.

18 WHEREUPON,

19 ROBERT BARTIK,

20 called as a witness on behalf of the People of
21 the State of Illinois, having been first duly sworn,
22 under oath was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MS. COLEMAN:

1 Q. Officer, could you please tell the judge
2 your name, your star number, and your unit of
3 assignment?

4 A. Police Officer Robert Bartik, B-a-r-t-i-k,
5 Star Number 3078, Chicago Police Department, Forensic
6 Services Division.

7 Q. And what do you do in the Forensic Services
8 Division?

9 A. I'm a polygraph examiner.

10 Q. So do you administer polygraph exams?

11 A. Yes, ma'am.

12 Q. I'm going to direct your attention now to
13 August 5th of the year 2000. Were you called to
14 administer a polygraph exam to a subject by the name
15 of Jovanie Long?

16 A. Yes, ma'am.

17 Q. Was there an arrangement for the detectives
18 to bring Jovanie Long to Homan Square on August 5th
19 of 2000 at approximately 8:00 a.m.

20 A. Yes, ma'am.

21 Q. What time did you arrive at Homan Square
22 that morning?

23 A. About 8:15.

24 Q. When you arrived at Homan Square, did you

1 meet with anybody?

2 A. When I got there, Detectives Riordan and
3 Pietlak (sic) were already there with Mr. Long. I
4 escorted them into my office. I put Mr. Long into
5 the polygraph laboratory and met with Detective
6 Riordan and Pietlak in my office.

7 Q. When you say, "Pietlak," is that Pietryla?

8 A. Yes.

9 Q. The detective that was in the back room?

10 A. Yes, ma'am.

11 Q. Do you see the person that you indicated
12 was Jovanie Long in the courtroom today?

13 A. Um, yeah. The gentleman in the beige
14 Department of Corrections suit (indicating.)

15 MS. COLEMAN: Judge, may the record reflect
16 the in-court identification of the defendant?

17 THE COURT: It shall.

18 BY MS. COLEMAN:

19 Q. When the defendant -- you said the
20 defendant was put in one room; correct?

21 A. He was placed in the polygraph laboratory.

22 Q. Where did you, Detective Riordan, and
23 Detective Pietryla go?

24 A. They were in my private office.

1 Q. What did you do then?

2 A. They apprised me of the situation, of the
3 facts of the case.

4 Q. Where -- was the defendant in the room at
5 that time?

6 A. No, ma'am.

7 Q. After they apprised you of the facts in the
8 case, what did you do?

9 A. After I got all the necessary information,
10 I then entered the polygraph laboratory. I
11 introduced myself to Mr. Long as a police officer,
12 told him that I was here to administer a polygraph
13 examination to him, that the taking of a polygraph
14 examination was a voluntary thing, that he did not
15 have to take it if he did not wish to.

16 I then presented him with a polygraph
17 subject consent form which I read to him verbatim
18 from the form.

19 Q. During this conversation with the
20 defendant, was there anybody else present besides you
21 and the defendant?

22 A. No, ma'am.

23 (WHEREUPON, People's Exhibit

24 Number 3 was marked for

1 identification.)

2

3 BY MS. COLEMAN:

4 Q. I'm going to show you what I have marked as
5 People's Exhibit Number 3 for identification.

6 MS. COLEMAN: May I approach?

7 THE COURT: Go right ahead.

8 BY MS. COLEMAN:

9 Q. Officer, I'm going to show you People's
10 Number 3. Do you recognize that?

11 A. Yes.

12 Q. What is that?

13 A. This is the photocopy of the polygraph
14 subject consent form of Mr. Jovanie Long.

15 Q. Is there anything that you read to the
16 defendant on that form before he signs it?

17 A. Yes, ma'am. I read the entire form
18 verbatim, including the Miranda warnings.

19 Q. And what else does that form tell him
20 besides Miranda warnings?

21 A. That he has -- that he is volunteering for
22 the test, that I can give the information to the
23 proper people, a form of release, and that he has a
24 right to have a copy of the results of the polygraph

1 himself.

2 Q. And after you advised him of that, did he
3 sign that form?

4 A. Yes, ma'am, on two different spots.

5 Q. And after that, did you then begin asking
6 him questions?

7 A. I then went into a pretest interview, yes,
8 ma'am.

9 Q. What is a pretest interview?

10 A. Well, the polygraph is actually broken up
11 into two different phases. The first phase is an
12 interview where we get the subject accustomed to
13 being there talking to us. We want to make sure that
14 he knows what the issue at hand is, why he's taking a
15 polygraph test.

16 We do a small background health check
17 to make sure that he's suitable to take the test. We
18 develop questions that we're going to ask him on the
19 test. We review the questions on the test with him
20 before we actually administer the polygraph
21 examination.

22 The second phase is the actual
23 administration of the test.

24 Q. And when you begin administering the

1 test -- what did you do here?

2 A. I started talking to him, interviewing him,
3 and explaining to him the process, talking to him
4 about the situation.

5 Q. Now, at any point in time did you ask him
6 specific questions about this event, about the event
7 that happened on May 13th of 2000?

8 A. Yes.

9 Q. What did you ask him?

10 A. I asked him if he did it.

11 Q. And what did the defendant tell you?

12 A. The defendant made a statement.

13 Q. What did he tell you?

14 A. He told me that during the robbery, he did
15 shoot the victim.

16 Q. Now, after the defendant made that
17 statement to you -- first of all, when he made that
18 statement, was he in any way hooked up to any kind of
19 machine?

20 A. No, ma'am.

21 Q. So the polygraph had not actually begun
22 yet?

23 A. No, ma'am.

24 Q. What did you do after the defendant made

1 that statement to you?

2 A. I immediately opened up the polygraph
3 laboratory door. I summoned Detective Pietlak and
4 Riordan into the polygraph laboratory.

5 Once they entered the room, I told
6 Mr. Jovanie Long, tell the detectives what you just
7 told me. At which point, he repeated what he had
8 just told me.

9 Q. Again, he made another admission?

10 A. Yes, ma'am.

11 Q. What did you do then?

12 A. I left the room.

13 Q. And was there ever a polygraph examination
14 given of the defendant that day?

15 A. No, ma'am.

16 Q. Why not?

17 A. He had made an admission.

18 MS. COLEMAN: I have no further questions,
19 Judge.

20 (WHEREUPON, Defendant's Exhibit
21 Number 1 was marked for
22 identification.)

23 CROSS EXAMINATION

24 BY MR. CONNIFF:

1 Q. Is it Officer Bartik?

2 A. Yes.

3 Q. Let me show you what I have marked as
4 Defendant's Exhibit 1 for identification.

5 MR. CONNIFF: May I approach, Judge?

6 THE COURT: Sure. Do you want to show that
7 to counsel?

8 MS. COLEMAN: I think I see it.

9 MR. CONNIFF: Sorry.

10 MS. COLEMAN: That's okay. I see it.

11 BY MR. CONNIFF:

12 Q. Officer, let me ask you, are those notes
13 that you, yourself, made?

14 A. Yes, sir.

15 Q. And do you see at the top of those notes
16 what appears to be a fax transmission date?

17 A. Yes.

18 Q. And what is the date of that fax
19 transmission date?

20 A. February 16, 2003.

21 Q. So just a couple of days ago?

22 A. Yes, sir.

23 Q. So these notes were made by you on or about
24 August the 5th of the year 2000?

1 A. Yes, sir.

2 Q. And they were just transmitted by fax
3 to the State's Attorney on February the 16th of
4 2003?

5 MS. COLEMAN: Objection to the relevance,
6 Judge.

7 THE COURT: I'll allow it. I'm hard-
8 pressed to see the relevance.

9 BY MR. CONNIFF:

10 Q. When did you make these notes?

11 A. Immediately prior and after talking to
12 Mr. Long.

13 Q. And in this particular note, Defendant's
14 Exhibit 1, this contains your report of the alleged
15 statement which Mr. Long made to you?

16 A. A paraphrase, yes, sir.

17 Q. And the first time you made known to the
18 State's Attorney that you had notes which referenced
19 that statement was when?

20 MS. COLEMAN: Objection to the relevance.

21 THE COURT: Sustained.

22 BY MR. CONNIFF:

23 Q. What -- where were these notes kept from
24 August the 5th, 2000, until you produced them?

1 MS. COLEMAN: Objection to the relevance.

2 THE COURT: Sustained.

3 BY MR. CONNIFF:

4 Q. Did anyone tell you to make this
5 notation of this alleged statement that Mr. Long made
6 to you?

7 A. No.

8 Q. You have done this in other cases?

9 MS. COLEMAN: Objection to the relevance.

10 THE COURT: Sustained.

11 BY MR. CONNIFF:

12 Q. If you have made notes of statements which
13 defendants make to you in other cases, what have you
14 been instructed to do with regard to the notes of
15 those statements?

16 MS. COLEMAN: Objection, relevance.

17 THE COURT: Sustained.

18 BY MR. CONNIFF:

19 Q. Did you cause this note of the alleged
20 statement which is Defendant's Exhibit 1 to be
21 transmitted to any supervisor or anyone above
22 you or State's Attorney following your making this
23 note?

24 MS. COLEMAN: Objection, relevance.

1 THE COURT: Sustained.

2 MR. CONNIFF: I have nothing further,
3 Judge.

4 MS. COLEMAN: I have nothing further,
5 Judge.

6 THE COURT: Thank you, sir.

7 THE WITNESS: Thank you.

8 (Witness excused.)

9 MS. COLEMAN: Judge, at this time, the
10 People rest in our case-in-chief.

11 MR. CONNIFF: Judge, we call Detective
12 Riordan.

13 THE COURT: Okay.

14 (Brief pause.)

15 THE COURT: Sir, you remain under oath to
16 tell the truth.

17 THE WITNESS: Yes, sir.

18 WHEREUPON,

19 JOHN RIORDAN,
20 called as a witness on behalf of the Defendant,
21 having been first duly sworn, under oath was examined
22 and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. CONNIFF:

1 Q. Detective Riordan, you were present when
2 Jovanie Long turned himself in?

3 A. Yes.

4 Q. And what documents are maintained in Area 4
5 Violent Crimes to note the presence of an individual
6 who is being questioned at that location?

7 MS. COLEMAN: Judge, again, I'm going to
8 object to generally what's taken as opposed to what's
9 taken in this case.

10 THE COURT: Establish if there's a
11 department policy.

12 MR. CONNIFF: Judge, I think the allegation
13 in the motion is that the defendant turned himself in
14 on August the 2nd, and according to the reports and
15 the state's evidence, it was August the 4th.

16 So I think it's relevant to the
17 motion whether or not -- I think the detective
18 already testified that there is a document in the
19 nature of a log which is routinely kept on every
20 shift in Area 4 which indicates people who are
21 present being questioned in Area 4 by name, time,
22 et cetera.

23 THE COURT: Go ahead. I'll allow it.

24 BY MR. CONNIFF:

1 Q. All right. Having heard the colloquy
2 between myself and the judge, are you familiar with
3 that document?

4 A. Yes.

5 Q. And that's kept on every shift?

6 A. It's just a clipboard with boxes that you
7 fill in.

8 Q. I'm sorry?

9 A. It's just a piece of paper kept on a
10 clipboard.

11 Q. Right. But it's a Chicago Police
12 Department form?

13 A. No.

14 Q. It's not a police department form?

15 A. It's not, like, an official police
16 department form to the best of my knowledge, no.

17 Q. But it's kept on every shift?

18 A. Yes.

19 Q. And the purpose of that is so that you can
20 document individuals who are in the area in case
21 people call looking for those people; correct?

22 A. Yes.

23 Q. And those records are kept in the course of
24 business?

1 A. I don't believe so.

2 Q. Did you, yourself, make any notation of
3 Jovanie Long's presence in Area 4 when he turned
4 himself in on anything other than a General Progress
5 Report?

6 A. No.

7 Q. Did you make any notation on this clipboard
8 that you have testified about?

9 A. No.

10 Q. Did you see anybody else do so?

11 A. No.

12 Q. So as far as you know, there is no
13 requirement that that sheet that you have testified
14 about be kept; is that correct?

15 A. No.

16 Q. And who -- who directs that that sheet be
17 put in the clipboard at the beginning of every
18 shift?

19 A. It's just a -- it's like a stack of -- it's
20 like a stack of lists that you fill in for whoever is
21 in the area, witnesses, offenders, so you can keep
22 track of people.

23 Q. Right.

24 A. It's not an official form. It's just,

1 like, a Xeroxed piece of paper.

2 Q. All right. But it is a form --

3 A. It's --

4 Q. -- right?

5 A. It's formatted like a -- with boxes that --

6 Q. Okay. Well, how is it formatted? What
7 information is at the top of that form?

8 A. It's just a sheet with boxes in them.

9 Q. All right. But what is the printing at the
10 very top of the form? You have seen it. What does
11 it say?

12 A. It doesn't say anything.

13 Q. It doesn't say anything?

14 A. No.

15 Q. It's a sheet of paper that has boxes on it
16 that doesn't say anything?

17 A. Right.

18 Q. And how many -- what are the boxes? How
19 many boxes are on the sheet?

20 A. Like, four.

21 I have to correct myself. I believe
22 it says -- I believe it says, "room number," or --
23 "room number, detective, and person's name." That's
24 all it says. Something very similar to that.

1 Q. All right. And those are kept -- those are
2 preprinted forms; correct?

3 MS. COLEMAN: Objection, asked and answered
4 and relevance.

5 THE COURT: It has been answered.

6 BY MR. CONNIFF:

7 Q. And what -- are those destroyed?

8 A. To the best of my knowledge, once
9 they're -- once every -- everything on that sheet's
10 been accounted for, it's thrown away.

11 Q. All right. So is it your understanding
12 that at the end of every shift those sheets are
13 thrown out? Every week? Every day? How often?

14 A. I couldn't give you an exact time frame
15 they keep those things.

16 Q. All right. What is the first document
17 you're aware of, official document that is maintained
18 and kept regarding an individual's presence in the
19 station?

20 MS. COLEMAN: Objection to general
21 principles, Judge.

22 THE COURT: Sustained.

23 BY MR. CONNIFF:

24 Q. Would the first official document be when

1 he is booked into the lockup?

2 MS. COLEMAN: Judge, I'm going to have to
3 object to relevance and definition of official
4 document. The detective has testified that he writes
5 on the GPRs. That's an official document.

6 MR. CONNIFF: There's an issue here about
7 how long he was in the station.

8 THE COURT: Yes, I understand. The
9 objection as to the form of the question is
10 sustained.

11 MR. CONNIFF: All right.

12 BY MR. CONNIFF:

13 Q. After an individual has been charged and
14 taken to the lockup, there is an official record
15 which is begun at that point; correct?

16 A. Correct.

17 Q. And those records are maintained; correct?

18 A. Correct.

19 Q. All right. But anything prior to that time
20 is not kept; is that your testimony?

21 MS. COLEMAN: Objection to the relevance
22 and asked and answered.

23 THE COURT: No, he can answer.

24 BY THE WITNESS:

1 A. No, that's not correct.

2

3 BY MR. CONNIFF:

4 Q. All right. What document is it that is
5 contemporaneously prepared and kept which documents
6 an individual's presence in the police station prior
7 to the time he's taken to the lockup?

8 A. It would be probably our General Progress
9 Reports.

10 Q. All right. And that is a document that you
11 prepared; right?

12 A. Correct.

13 Q. Only as to this case; correct?

14 A. They're prepared during investigations on
15 each case, each separate case.

16 Q. Right. But there is no document which, for
17 example, is prepared on each shift which lists an
18 individual and then above that individual's name and
19 below that individual's name other individuals which
20 aren't keyed to any specific case but are keyed to
21 just who is present in the station during a given
22 period of time? There are no such documents that are
23 kept, are there?

24 A. No official documents like that, no.

1 Q. That's the document you said that was
2 on the clipboard that is destroyed soon after the
3 shift?

4 A. I don't know --

5 MS. COLEMAN: Objection. That's
6 mischaracterizing his testimony.

7 THE COURT: Sustained.

8 BY MR. CONNIFF:

9 Q. Why is it that those documents are
10 destroyed, Detective?

11 A. I don't know. It's to assist the office
12 personnel basically.

13 Q. All right. How long is it, your
14 understanding, that an individual can be kept in the
15 station with no official record made of his presence
16 in the station?

17 MS. COLEMAN: Objection.

18 THE COURT: Sustained.

19 BY MR. CONNIFF:

20 Q. Is it possible that a defendant can come
21 into a station on a given date and there be no record
22 of his being present in the station, but him actually
23 being in the station?

24 MS. COLEMAN: Objection, speculation.

1 THE COURT: Sustained.

2 MR. CONNIFF: Nothing further.

3 MS. COLEMAN: Judge, I have nothing based
4 on that.

5 THE COURT: Thank you, sir.

6 (Witness excused.)

7 THE COURT: Call your next witness, sir.

8 MR. CONNIFF: Judge, we would rest on the
9 motion.

10 THE COURT: Okay.

11 MS. COLEMAN: We have no rebuttal, Judge.

12 THE COURT: Both sides rest?

13 MR. CONNIFF: Yes, Judge.

14 THE COURT: Argument?

15 MR. CONNIFF: Judge, very briefly.

16 Your Honor has heard the testimony.

17 This was a sworn motion to suppress statements. You
18 have heard the testimony of Detective Bartik. You
19 have seen the allegations of the motion. And what is
20 left dangling, I suggest to your Honor, is the issue
21 of the defendant's presence in the station, which he
22 alleges was on August the 2nd.

23 You have heard the testimony of both
24 detectives, and it appears that there are records

1 which are kept concerning presence at the station
2 which are destroyed. We would submit that
3 those are records which support the allegation in
4 this motion. Those are not records which should be
5 destroyed.

6 Detective Bartik, his testimony was
7 that that was an official record which is done every
8 day every shift. Detective Riordan says it's simply
9 a document which appears to be a form and there's no
10 writing on it, which is maintained apparently, if you
11 believe his testimony, only for the convenience of
12 the police officers to be able to answer questions
13 about who was present in the station.

14 And I submit to your Honor that what
15 you have before you is a conflict in the testimony
16 concerning the date that the defendant was in the
17 Area 4, and the state hasn't shown that this
18 defendant was not in the station on August the 2nd as
19 he alleges, and due to that fact, due to the
20 destruction of these documents which would
21 corroborate and, indeed, support the allegations of
22 the motion coupled with -- with the selective
23 videotaping of defendants present in the area, we
24 would ask that your Honor suppress the statement.

1 THE COURT: Miss Coleman?

2 MS. COLEMAN: Judge, you have before you
3 absolutely no documents at all that in any way
4 impeach the credible testimony of the three officers
5 who testified before you as to the time frame of
6 when the defendant turned himself in, when he was
7 given the polygraph exam, and when he ultimately
8 confessed.

9 What you have is three people who
10 came in here and rebutted every single allegation in
11 the defendant's motion, and the defendant has thrown
12 out to you nothing but conjecture and speculation not
13 supported by anything.

14 These officers were not impeached in
15 any way as to any dates, as to a police report that
16 ever said the defendant was in custody on August 2nd,
17 as to any GPRs, as to any sups, lockup keeper's
18 records. There is nothing to indicate that the
19 defendant was in custody at any time before August
20 4th.

21 What you do have is his statement in
22 his videotaped statement where he is asked by the
23 State's Attorney, did you turn yourself in yesterday.
24 Yesterday being the day before the videotape, which

1 was given August 5th.

2 Again, there is absolutely no
3 evidence to the contrary. In fact, in the
4 defendant's motion, he indicates that the video is
5 August 5th, and in the videotape, the defendant
6 clearly says he turned himself in the day before.

7 The defense has given you nothing but
8 speculation and conjecture, Judge, and it does not
9 rebut what the state's witnesses have presented to
10 you, which is a complete denial of every single one
11 of the defendant's allegations.

12 We'd ask that you deny the
13 defendant's motion.

14 THE COURT: Okay. Thank you all.

15 There is no evidence to support the
16 assertion that the defendant was in custody on August
17 2nd. As Miss Coleman argues and the testimony of the
18 state's witnesses here today support, none of those
19 called to testify today had any contact with --
20 either by a telephone or in person with the defendant
21 prior to August 4th.

22 There is absolutely no showing of
23 psychological or physical coercion, and the videotape
24 supports this Court's conclusion that the defendant's

1 willpower was not overborne, that, in fact, the
2 statement was given knowingly and voluntarily.

3 The police officers have
4 categorically denied each assertion of the
5 defendant's motion to suppress statement without
6 impeachment or rebuttal of any shape or form.
7 Accordingly, this motion is respectfully denied.

8 MR. CONNIFF: Judge, we would ask that the
9 records which were testified to which are maintained
10 on every shift in Area 4, that those records be
11 produced. First of all, as to the relevant time
12 period in question, and if it's the position of the
13 officers that those records have been destroyed, I
14 would ask that your Honor order that records --
15 contemporaneous records so that there is some
16 indication what is being done routinely be either
17 submitted to the Court in camera and perhaps sealed.
18 That if this is going on on a daily basis now where
19 these records are being maintained, to make that part
20 of this record, and if those records are being
21 routinely destroyed such that evidence which could be
22 available to a defendant to corroborate his
23 allegation that he was in the station prior to the
24 time that the detectives say he was, that becomes

1 critical evidence in the case.

2 So we would ask that your Honor order
3 that those records be produced for the relevant time
4 period, and if not -- if they have been destroyed,
5 that they produce records which are substantially
6 similar records in camera and to be sealed so that
7 they become part of the evidence in this case as to
8 what the ongoing procedures in Area 4 are.

9 MS. COLEMAN: Judge, first of all, just
10 because Mr. Conniff calls a piece of paper a record
11 does not make it a record. The detectives testified
12 it's something that the office personnel at the area
13 use, and when all the people in that piece of paper
14 are accounted for, it's destroyed.

15 It's obviously just something that
16 they can use so they know who is in which interview
17 room at what given period of time. It's certainly
18 not evidence.

19 And I think it would be ridiculous to
20 ask people to recreate records that may never have
21 existed in the first place. There's certainly no
22 evidence that there's any evidentiary value, and I
23 would point out that there are two witnesses that
24 were listed in the -- that the detective talked about

1 that if the defendant was alleging he was there on a
2 different day, rather than records, maybe he should
3 call this reverend to testify.

4 But I don't see why or how we can ask
5 the detectives at this point to recreate a piece of
6 paper that may never have existed in the first place,
7 and I think it would be inappropriate, at best, for
8 the detectives to be expected to do that.

9 MR. CONNIFF: Judge, with all due respect,
10 I fail to see how records which are maintained -- the
11 state says they're not records. Well, obviously, if
12 it's a routine that it be done, then it's done every
13 day on every shift.

14 There's a reason why those records
15 are being kept. Obviously, those are records of who
16 is in a station that are not case specific, are not
17 GPRs, that are not prepared by the detectives. They
18 would be authenticated, and I think the credibility
19 would be enhanced by contemporaneous names. You
20 would have a list of names which would indicate a
21 corroboration for a defendant's claims.

22 I can't think of a better way to
23 refute defendant's claim that he was kept in custody
24 prior to the time any official record other than the

1 GPR was made as to the date of his report. It's
2 interesting that those records are disposed of and
3 thrown away.

4 THE COURT: I think this video of the
5 defendant goes not just a long way in refuting your
6 assertion, but, in fact, destroyed it.

7 I will say to you, Miss Coleman, that
8 while it may not be policy of the Chicago Police
9 Department, it appears that it is policy of Area 4 to
10 memorialize in some way those who come into the area.
11 My understanding is that this document goes to all of
12 those who are in the area. That may not be true. It
13 may be only for suspects. It may be only for
14 arrestees. But certainly, it's clear that it has
15 become the policy of Area 4, at least, Violent
16 Crimes.

17 It is also abundantly clear to me
18 that now, two and a half years later, those records
19 no longer exist. I don't know that they would shed
20 much light on any particular case, and as it relates
21 to this case in particular, it would be of absolutely
22 no value because, as I have said, the defendant in
23 his own video recorded statement I think refuted his
24 claim that he was present in the station two days

1 before it is documented that he was, in fact, in
2 custody. Nothing could be any more clear to me, and
3 so I'm not going to order the production of documents
4 which I know do not exist.

5 Now, as for the question of records,
6 I think the written record is clear that such
7 documentation, at least in August of '02, did exist.

8 MS. COLEMAN: 2000, Judge.

9 THE COURT: Of 2000. So I don't know what
10 the practice is now. It could very well be that
11 as I speak they're continuing to use this log,
12 but I do not believe that would have any value at all
13 to the matter before this Court. So that's my
14 ruling.

15 MS. COLEMAN: Judge, in terms of
16 scheduling, I talked to Mr. Conniff ahead of time
17 about the trial date that we have, that that probably
18 will not work because the victim's mother will be out
19 of town that week, and, also, there are some DNA lab
20 results we're still expecting, and with regard to
21 Mr. Long, we still have to do a management conference
22 because it is still a death penalty case.

23 The codefendant got March 21st. I
24 don't know that that works for Mr. Conniff, or we can

1 do a different day since he has different issues.

2 MR. CONNIFF: That's fine. March 21st is
3 fine, Judge.

4 MS. COLEMAN: I will try to get the DNA
5 results by that day, but I don't know --

6 THE COURT: All right. By agreement, 3-21.
7 Is it 20 or 21?

8 MS. COLEMAN: Oh, you know what? It is
9 the 20th.

10 MR. CONNIFF: By agreement, Judge.

11 (WHEREUPON, the above matter
12 was continued to
13 March 20, 2003.)
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